United Nations A/HRC/30/NGO/42

General Assembly

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Human Rights Council
Thirtieth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Jammu and Kashmir Council for Human Rights (JKCHR), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-14937(E)

Please recycle

Promotion and protection of all human rights in Jammu and Kashmir

Human Rights Council while discussing the full regime of human rights at the 30th session, in particular civil and political rights, has a duty to consider the social, political and economic atmosphere that has continued to prevail in the State of Jammu and Kashmir.

Indian security forces continue to violate the terms set for their temporary admission, into Jammu and Kashmir, namely, "defend territory and to protect the lives, property and honour of people". These forces have also failed to honour the stipulations contained in 21 April 1948 Security Council Resolution on their number, behaviour and location. They are engaged in a war with the people, that they were assigned to protect.

A generation of Kashmiri youth has been killed since 1990 and the part of the State under Indian control has gained notoriety of being the second poorest State in India. According to National Sample Survey Office (NSSO) of the Union Ministry of Statistics and Programme Implementation the number of households living below poverty line in Jammu and Kashmir has risen to 4.17 lakhs. The poverty rate in the state rose from 9.4 per cent in 2009-10 to 10.35 per cent in 2011-12, mainly due to an increase in the number living below the poverty line (BPL) in rural areas from 8.1 per cent to 11.5 per cent.

Government of India is subject to obligations and responsibilities under the terms of provisional accession and further obligations under UNCIP resolutions. Government of India may for its own reasons feel uneasy with its international obligations on Kashmir, but it can't afford to renege on its Charter duties as a member nation of the UN.

The Council is required to consider and recommend on the low intensity war going on between the common citizen of Indian administered part of Kashmir (Valley in particular) and the Indian security forces since 1990, and its impact on the life and habitat. Human Rights violation in the Valley has continued to echo regularly at the UN World Conference on Human Rights (Vienna), Human Rights Commission, Sub Commission, Human Rights Council and the UN General Assembly from early 1990. Indian Government became a subject of Resolutions L40 and L21 at the Human Rights Commission and the Sub Commission, for her gross and systematic violation of human rights.

The human rights situation in the Valley of Kashmir has not improved. Muslims remain a target population. Elderly Kashmiri leader Syed Ali Shah Geelani continues to suffer a house arrest at his Haider Pora Residence in Srinagar and is continually denied to step out to offer Friday prayers at a local mosque in accordance with Muslim faith. He has not been allowed to offer Eid prayers that fall due on two occasions after Ramadan in a year. He is denied right of association and right of expression, to be free and communicate with the people in a peaceful manner. It is a violation of the rights guaranteed in para 12 of UN Resolution of 21 April 1948.

Dr. Mirwaiz Umar Farooq another senior leader is regularly interrupted in his Friday appearances at Jamia Mosque of Srinagar. Shabir Ahmad Shah another senior leader continues to suffer house arrests and denial of offering his Friday prayers for over some time. Kashmiri leaders in particular Hurriyat leaders and others opposed to Indian non-compliance of UN mechanism on Kashmir and advocating the jurisprudence of UN Resolutions on Kashmir, are denied passport facilities. Over 60,000 families in Jammu and Kashmir are "indexed not to receive CID clearance" for passports.

Indian secret agencies in the Valley have an overwhelming and final control to determine the manner of life. Delhi has now announced a dangerous doctrine to "kill a terrorist by another terrorist". There are difficult days ahead for Muslims in the Valley. Indian Defence Minister Manohar Parrikar has announced a dangerous doctrine to "neutralize and kill terrorists through terrorists." Anyone in dissent could be tagged as a terrorist and killed. Defence Minister was speaking at an event organized by a local news channel in New Delhi when he said, "We have to neutralize terrorists through terrorists only. Why can't we do it? We should do it. Why does my soldier have to do it?" In fact it would be an Indian soldier or his proxy killing a native State Subject.

India has used counter terrorists in Jammu and Kashmir since early 1990s and the policy sent a generation of Kashmiri youth to the grave. However, this time India may have an elaborate and aggressive plan to repeat in the Valley, in AJK

(Azad Jammu and Kashmir), Gilgit and Baltistan and even in some parts of Pakistan. Pakistan is a nuclear sovereign State and has all means to respond. The people of Kashmir have only a case at the UN and no military defence, unless Indian establishment means to provoke the Kashmiri youth once again and use the excuse to send another generation to the grave.

Adviser to the Prime Minister of Pakistan on National Security and Foreign Affairs, Sartaj Aziz has responded saying, "It only confirms Pakistan's apprehensions about India's involvement in terrorism in Pakistan. It must be the first time that a Minister of an elected government openly advocates use of terrorism in another country on the pretext of preventing terrorism from that country or its non-state actors."

Jammu and Kashmir is a disputed state and the principal law that retains the principality of its citizens is the State Subject Law of 1927. It pre-dates the emergence of India and Pakistan as two independent sovereign States in 1947. There are reports that Government of India has plans to setup colonies in the valley to settle retired army and paramilitary personnel. After the death of a Muslim generation in the Kashmir Valley, resulting into a numerical deficit, the present settlement plan is looked upon with suspicion by Muslims.

They regard it as a secret agenda to settle non-State Subjects and change the demographic structure of the state and its disputed nature. Concerns of Muslims and Christians living in the Valley are further aggravated by the claims made by Rashtriya Swayamsevak Sangh (RSS) leaders in particular Dr. Pravin Tagodia that "Muslims and Christians in India were Hindus". RSS, along with other parties like Vishva Hindu Parishad (VHP) and Dharma Jagran Manch have been arranging mass conversions of Muslims and Christians into Hinduism under a program called "Ghar-Wapasi" (Return to Home) all over India.

The political right to participate in local elections through a free and fair vote in the Indian administered part of Kashmir has always remained suspect. It was the rigged election of 1987 that gave rise to an armed struggle against Indian presence in Jammu and Kashmir. These Muslim suspicions are credited by former RAW (Research & Analysis Wing) chief A S Dulat in his book "Kashmir-The Vajpayee Years". At page 205 he writes, "The IB (Intelligence Bureau) had a sinister reputation in the Kashmiri mind. Part of it was because since Independence, the IB had basically been running Kashmir, advising the home ministry and reporting directly to the prime minister on whatever happened there…The IB in J&K, had a fair amount of Kashmiri Pandits. One should not forget that when Sheikh Abdullah was arrested a conspiracy case was filed against him. It was put together by the IB".

How Indian army and secret agencies manipulate lives in Kashmir is a disheartening tale. The former chief of the spy agency further writes at page 231 and 232, "Thus the AFSPA (Armed Forces Special Powers Act) is a dirty word not just in Kashmir but in the States in the north-east as well…Yet the AFSPA is linked to the bigger question how much power the army is wielding, and the movement in Kashmir has provided the army an opportunity to expand its presence in J&K. Though the army justifies its heavy deployment by periodically raising the bogie of infiltration, it is not restricted to the border; many Kashmiris feel the army has turned the entire Valley into a cantonment". He adds, "It's different thing that nowadays the generals make the army out to be indispensable by offering some theory or another about infiltration and terrorism every six months or so".

It is high time that Human Rights Council takes cognizance of the habitat under the Indian administration turned into a 'cantonment' by the army and make a recommendation that restraints of number, behavior and location put on the Indian forces in the 21 April 1948 UN Security Council Resolution are enforced, as an immediate relief to the Muslims in the Valley.

Rights do not have an expiry date. The people of Scotland went to a referendum after a 307 year old union with England. The 307 year old Scottish union with England was saved by a 55% No vote to Independence against a 45% Yes vote. People of Kashmir have yet to cast their free vote under UN supervision.

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Human Rights Council
Thirtieth session
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the Jammu and Kashmir Council for Human Rights (JKCHR), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-14938(E)

Please recycle

Non suiting people of Kashmir in the dialogue

The first meeting between the National Security Advisors of India and Pakistan, post UFA meeting between the two Prime Ministers of India and Pakistan failed to take place on 25 August 2015 in Delhi. Peace constituency in India and Pakistan, in the three administrations of Jammu and Kashmir at Srinagar, Muzaffarabad, Gilgit and in the Kashmiri Diaspora is genuinely disappointed. The Secretary General of the United Nations and many other capitals around the world have expressed their disappointment and have urged upon the leaderships in the two countries to trust the age old instrument of dialogue used to by people to settle their feuds and used by nations to end their disputes.

India and Pakistan have charter obligations, "To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace". Government of India set pre-conditions on the NSA of Pakistan, in particular, that he would not meet the Kashmiri leadership (Hurriyat and others) during his visit and would not express himself on Kashmir. Every Pakistani dignitary visiting New Delhi meets Kashmiri leadership and civil society to seek their inputs. The practice has never been opposed by the Government of India. This time it was an exception.

The reasons given by the External Affairs Minister of India for not allowing the Kashmiri leadership to meet the NSA of Pakistan have no merit. According to ***Sushma Swaraj*** meeting Kashmiris was a violation of Shimla and UFA spirit. In other words India in 2015 wants to non-suit the people of Jammu and Kashmir as a party to any dialogue on Kashmir. India could not non-suit the people who have their right to equality and self-determination in dispute.

Jammu and Kashmir as reported to the United Nations Security Council in January 1948 continues to wait for the implementation of the UN mechanism for ascertaining the free will of the people under a UN supervised referendum. Jammu and Kashmir, in particular the Muslim majority Valley has been put under a 'security blanket' and an invisible spread of intrusive surveillance.

Pakistan as a party to the dispute and as a member nation of United Nations has continued to give political, moral and diplomatic support to Kashmiris right of self-determination as envisaged under UNCIP Resolution. This commitment is reflected in article 257 of the Constitution of Islamic Republic of Pakistan and responsibilities assumed under UNCIP Resolution by Pakistan in Azad Kashmir and Gilgit and Baltistan. Prime Minister of Pakistan made a strong case at the UN General Assembly in 2014 on human rights situation and the implementation of UN Resolutions in Kashmir.

It was at the 766th meeting of the UN Security Council on 30 January 1957 that, Government of Pakistan made its position clear and said "The only international obligations which the Governments of India and Pakistan have undertaken in regard to the Kashmir dispute are embodied in the two resolutions of the United Nations Commission dated 13 August 1948 [S/1100, Para 75] and 5 January 1949 [S/1196, para 15]. I submit that it is now the duty of the Security Council to ensure that this international agreement is implemented without any further delay". The meeting of Kashmiri leaders with the NSA of Pakistan would have enlarged the peace constituency on Kashmir as envisaged in the UN mechanism on Kashmir.

The Indian argument in 2015 that the people of Jammu and Kashmir are non-suited as a party is without merit. It turns the Indian control into an occupation, brings it into a direct conflict with the world community that has subscribed to UN SC Resolutions on Kashmir. It is likely to reignite the armed struggle in the Valley. India may have reacted to the decision taken by Government of Pakistan not to invite Srinagar based Jammu and Kashmir Assembly speaker to Commonwealth Conference in Islamabad.

Pakistan has taken the decision in accordance with UN stipulation on the mandate of Jammu and Kashmir assembly. The present Jammu and Kashmir Assembly lacks the legitimacy and is not a representative assembly as required under the UN Security Council Resolution of 30 March 1951. It was at the 765th meeting of the UN Security Council on 24 January 1957, that Australian representative Mr. Walker challenged India at the meeting and queried the legitimacy of the 'deliberations of the Kashmir Constituent Assembly'.

He pointed out that, "The Security Council also considered it necessary almost five years ago to record its view that any action taken in a Constituent Assembly in Kashmir to determine the political future of the people of Kashmir would not constitute a disposition of the State in accordance with this principle". He added that, "Indeed, the Council has, in its past resolutions, laid down certain basic steps that should be taken towards a solution, steps which were firmly founded upon the principles of the Charter of the United Nations".

Australian representative enquired from Indian representative, "What is not completely clear is to what extent this represents any new step purporting to determine the future affiliations of the State of Kashmir and whether it is regarded by the Government of India as raising a new barrier in the way of a plebiscite in accordance with the Security Council's past resolutions".

Sir Pierson Dixon the British representative at the UN Security Council at the 765th meeting held on 24 January 1957 also challenged India's reported plans at variance to the principles laid down in UN Security Council resolutions for holding a Plebiscite in Kashmir. He stated, "The Constituent Assembly was established in Srinagar in 1951. As Mr. Krishna Menon pointed out yesterday, its primary task was to promote the process of self-government in Kashmir territory. That is not a matter which in itself comes within the jurisdiction of the Security Council, and my Government, for one, of course, welcomes any step towards the development of democratic processes in Kashmir as elsewhere; but when its attention was called to the matter in 1951, the Security Council could not fail to take note of the reports that one of the functions of this Constituent Assembly would be a decision on the future shape and affiliation of Kashmir". The decision of the Government of Pakistan, not to invite the speaker of Srinagar based Jammu and Kashmir assembly is in accordance with the position taken in the UN Security Council Resolutions.

The adoption of Jammu and Kashmir Constitution, (and its section 3) on 17 November 1956 and giving effect to other provisions on 26 January 1957 are a violation of the caution contained in UN Security Council Resolution of 30 March 1951. The matter has been fully debated at the UN Security Council on 24 January 1957.

Interpretation put on Shimla Agreement and UFA Agreement by Indian Government to non-suit Kashmiris has no merit. Whenever it came to Kashmir, Indian leadership (with one or two exceptions) wears a make up to act different to their normal claims of democracy and secularism. Kashmir is not as simple as understood by Indian External Affairs Minister. There are four Kashmiris, namely, one living at Srinagar, Muzaffarabad, Gilgit and the fourth living as the Diaspora.

Over 1.5 million Kashmiris live and are settled in the four provinces of Islamic Republic of Pakistan. They are represented in the AJK assembly through twelve seats (refugee seats) and Kashmiris living in Pakistan have a dual privilege to vote in the National and Provincial Assemblies of Pakistan as well. The voting is in the same manner as a Commonwealth (non-British) citizen has the right to vote in British elections during his or her residence in Britain.

Prime Minister of Pakistan, Speaker of National Assembly, Defence Minister, Finance Minister, Railway Minister, Information Minister, Trade Minister in the cabinet and many others in the National Assembly, Senate and Provincial Assemblies are of Kashmiri origin. Any attempt to non-suit the people of Kashmir (Hurriyat in particular) for any meeting with a Pakistani Minister or dignitary, by the Indian establishment is not helpful in maintaining the peace constituency.

The representatives elected under the J & K Constitution of November 1956 in the Indian administered part of Kashmir have maintained that there is no merger with Indian union and the matter has not been resolved so far. If India had a strong constituency and moral mooring in its administered part of Kashmir, it would not have needed massive deployment of army in a small place and a broad spread of secret agencies there. It has not only armed them to the teeth but has resourced them with no holds barred indulgence under AFSPA.

The people of Kashmir could demand to rehabilitate 'permit system' on the entry of Indian citizens into Kashmir as it was required until April 1959. JKCHR urges upon the Council that until such time that India-Pakistan return to a dialogue, the jurisprudence of UN Resolutions is respected in Kashmir.

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Human Rights Council
Thirtieth session
Agenda item 10
Technical assistance and capacity-building

Written statement* submitted by the World Federation of Ukrainian Women's Organizations, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-14939(E)

Please recycle

Ukraine's human rights at risk

The World Federation of Ukrainian Women's Organizations wishes again to focus the attention of the international community on the ongoing violation of human rights that has become Ukraine's daily reality since the illegal annexation of Crimea by the Russian Federation and its undeclared war on Ukraine's sovereignty. Despite sanctions, the Russian Federation continues to occupy Crimea; and despite the Minsk ceasefire agreement, the amassing of Russian troops along the borders and within Ukraine's Donbas region and attacks on Ukrainian forces have not stopped. Regrettably, in the absence of an effective global response to what is a clear violation of international law, Ukrainians, on the eve of the 25th anniversary of Ukraine's independence, are sacrificing their lives, the highest possible price one can pay, for their insistence on a chance to enjoy the most fundamental of freedoms in their own country.

Ukraine is currently facing its most dramatic challenge since attaining statehood. The "hybrid war" conducted against Ukraine has taken more than 6,450 military and civilian lives, including over 600 women and girls (as reported for the period of mid-April 2014 – June 3, 2015) and has caused grave physical and psychological injury to a heartbreakingly large number of young people among the more than 16,000 wounded. It has also resulted in the displacement of a growing number of Ukraine's citizens (over 1.4 million internally displaced persons as of July 2015), among whom women and those in their care are the most vulnerable[1].

The World Federation of Ukrainian Women's Organization will welcome all further attempts of the international community to resolve the situation in Ukraine, as the declarations, sanctions and ceasefire agreement have not been successful. The situation in Ukraine remains volatile. Human rights violations have intensified against the Crimean Tatars loyal to Ukraine, who recently conducted their World Congress of Crimean Tatars in Ankara under threat and intimidation. Also, according to the Human Rights Office on June 1, 2015, there is grave concern over the: « *serious human rights violations and abuses that persist in eastern Ukraine, including shelling, executions, arbitrary and illegal detentions, torture, ill-treatment, human trafficking and the lack of justice and accountability, as well as deprivation of economic and social rights that are deeply affecting the five million people living in the conflict-affected areas* »[2].

The burgeoning numbers of those internally displaced constitutes an unprecedented challenge for Ukraine, which is struggling to provide assistance. Especially affected are women and children, but also entire families who have fled from active battlegrounds of the Donbas, as well as the elderly, infirm and institutionalized who have been in urgent need of evacuation. The Ukrainian Government has adopted a law "On ensuring the rights and freedoms of internally displaced persons" (2014) providing guidance for the registration and coordination of assistance to IDPs in need of more secure quarters. However, the IDP experience involves many difficult hurdles, such as family reunification, integration into new places of residence, often dealing with inadequate living conditions. All of these problems require consistent support of Ukraine's government and the help of the international community.

The overall situation in the Donbas region remains tense. Conditions are worsening daily, making life a struggle for the most basic of human needs. The presence of military personnel and equipment terrifies civilians, and hinders their freedom of expression. On August 16, 2015, a Special Monitoring Mission (SMM) to Ukraine recorded ceasefire violations in several locations, in particular around the Donetsk airport and in the area around Luhansk[3], which caused serious damage to residential buildings and infrastructure. The situation in occupied Crimea is also worrying. Ukrainian citizens are deprived of their nationality and the right to freedom of speech, press, and assembly. The indigenous Crimean Tatars, who opposed the Russian seizure of their homeland, are being harassed and persecuted. There have been kidnappings, disappearances, and murders of Crimean Tatar activists, in addition to the retraction of their community's civic rights of assembly and representation.

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[1] http://reliefweb.int/sites/reliefweb.int/files/resources/ocha_ukraine_situation_update_30_may_-_5_june_2015.pdf
[2] http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16026&LangID=E
[3] Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 19:30 (Kyiv time), 16 August 2015 // http://www.osce.org/ukraine-smm/177826

As an international network of Ukrainian diasporan women's organizations, we are especially concerned for the women in our homeland. We raised awareness, during the international 16 Days Campaign against Gender-Based Violence, of the incidence of sexualized torture in the militarized zones. These incidents of intimidation and retaliation through gender-based violence, first reported by international human rights observers, have been confirmed by eyewitnesses and victims, a few of whom agreed to speak publicly about their ordeals[4]. Their stories also reflect the reality of the widespread use of psychological pressure and threats against residents of eastern Ukraine and Crimea. We have also become more acutely aware of persistent gender stereotypes that become prominent in a wartime context and recognize patterns of discrimination that continue to undermine the promises of the Ukrainian Constitution (1991) and Ukraine's laws. The law of Ukraine (2005) «On Ensuring Equal Rights and Opportunities for Women and Men » needs application to the particular vulnerability of women in the militarized context.

As activists on the EuroMaidan and as members of Ukraine's military forces, Ukraine's women have demonstrated great courage as partners in the fight for democracy and freedom. We express our extreme concern for the fate of Ukrainian air pilot, Lt. Nadiya Savchenko, who was captured on the territory of Ukraine and kidnapped into Russia where she has been illegally imprisoned under false charges since June of 2014. The continued detention of Ms. Savchenko who is a deputy of Ukraine's Parliament and a member of the Permanent Delegation of Ukraine to the Parliamentary Assembly of the Council of Europe, is plainly a political affair. Furthermore, Nadiya Savchenko is one of several such political prisoners detained by the Russian Federation for what widely recognized as show trials. We are equally concerned over the recent sentencing of the Ukrainian film director Oleg Sentsov and the Ukrainian activist Olexander Kolchenko. We appeal for the close monitoring of the fate of these and other *de facto* prisoners of war held by the Russian Federation.

Regrettably, these events are part of a familiar pattern. They mirror the style of aggression perpetrated by the Russian Federation against other former Soviet Socialist Republics, Moldova and Georgia. Even more regrettable is the fact that the need for militarized self-defense may severely hinder Ukraine's implementation of reforms and treaties that could bring the country closer to the international standards expressed with such hope and optimism in the goals and targets of the Agenda 2030 for Sustainable Development. On a more optimistic note, the undeclared war has spurred a massive volunteer response in Ukraine, carrying humanitarian aid to the IDPs and those serving in the militarized zone. It has given birth to reform minded projects. Most significantly, it has served to ignite among Ukraine's people a stronger sense of self-esteem and purpose.

The World Federation of Ukrainian Women's Organizations calls on the international community to support the Ukrainian government in its obligation to ensure the human rights for all of its citizens; to embrace the defense of Lt. Nadiya Savchenko and other prisoners of war; and to redouble efforts to promote a climate of accountability and respect for international law. We urge the international community to go beyond the usual declarative positions and to work actively and concretely with government and civil society representatives for full human rights and freedom in Ukraine.

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[4] We refer to the television documentary, "Tortured Femininity," which was produced in Kyiv by Ukraine Today, and first aired on March 13, 2015.